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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States Parties due in 1992

Addendum

TOGO

[27 February 1996]

Introduction

1. This report was prepared in implementation of the provisions of article 44 of the Convention on the Rights of the Child, under which States Parties undertake to submit reports on the measures they have adopted which give effect to the rights recognized therein and on the progress made on the enjoyment of those rights within two years of the Convention's entry into force. It was prepared in accordance with the general guidelines regarding the form and content of initial reports to be submitted by States Parties.

2. The report is the result of a joint effort by the Togolese Government and civil society. The Government's pro-child policy was given effect by the creation, in December 1993, of the National Committee for the Protection and Promotion of Children (CNE), which is made up of nine ministerial departments, several non-governmental organizations (NGOs) and private associations working in the field of human rights and the rights of the child, and all the country's churches. The task has been carried out with a genuine concern for the truth and in a pluralist, democratic spirit, for the sole purpose of contributing to the strict implementation of the Convention and to improving the living conditions and overall development of Togolese children.

3. Togo signed the Convention on the Rights of the Child on 26 January 1990 and ratified it on 3 July 1990. The instruments of ratification were

deposited on 1 August 1990. The Convention was promulgated on 19 November 1990, by Decree No. 90-180 of the President of the Republic, with a view to its publication in the Official Journal as a law of the Republic.

4. It is recognized in sub-title I, article 10 of the Togolese Constitut that the exercise of State sovereignty is limited by respect for fundamenta human rights, which are also guaranteed by the relevant international instruments which Togo has ratified.

5. Furthermore, the Preamble to the Constitution of 14 October 1992 forcefully proclaims that the Togolese people is determined to build a Stat subject to the rule of law, in which the fundamental human rights and freed and the dignity of the human person must be guaranteed and protected, and convinced that such a State subject to the rule of law must be based on political pluralism, the principles of democracy and the protection of huma rights as defined by the Charter of the United Nations, the International Covenants of 1966 and the African Charter on Human and Peoples' Rights, adopted in 1981 by the Organization of African Unity.

6. In that context, the Togolese Government, associating itself with the efforts of civil society, is constantly and progressively endeavouring to introduce into the national legislation the international norms set forth the various human rights instruments in general and the concerns expressed the Convention on the Rights of the Child in particular.

7. In any event, Togo subscribes to the definition of the child set fort the Convention, to the effect that a child means every human being below t age of 18 years; this entails harmonizing the various national laws which different ages of majority according to the situation in question.

8. Togo is currently undergoing a period of social calm after the socio-political crisis which characterized the transition to democracy. T inauguration of the first Government of the Fourth Republic has made possi the adoption of a series of measures aimed at restoring peace to society a re-establishing a climate of national reconciliation. These measures incl the Act of December 1994, which granted amnesty to those who had committed acts of violence during the crisis, and the signature on 12 August 1995 of agreement between the Togolese Government and the Office of the United Nat High Commissioner for Refugees for the voluntary repatriation of Togolese refugees.

9. The restoration of democracy and the Government's commitments to civ society, making children a priority of national development by improving t quality of life, have been expressed through the rapid promulgation of the Convention as a law of the Republic and the adoption of special measures t protect children. These measures include the implementation of long-term policies and programmes in the fields of health, nutrition for mothers and children, education, etc.

10. Nevertheless, much remains to be done. Mortality rates, levels of child nutrition, academic results, etc., while masked by encouraging indicators of national averages, continue to vary considerably from one region to another, particularly between urban and rural areas.

11. New problems have also appeared, such as the abuse, abandonment and exploitation of minors, adolescent pregnancy, drug addiction, alcoholism, etc. These are social problems, particularly if considered from the point of view of an improved quality of life for children, which is increasingly a priority of both the Government and civil society.

12. The above remarks are a summary of the points dealt with in the body of this report.

I. DEFINITION OF THE CHILD

13. The Convention defines the child as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. Under the Togolese Individuals and Family Code, a child is defined as any unemancipated minor of either sex below the age of 21 years (art. 265).

14. In order to bring the Togolese Code into line with the Convention, given the fact that any international convention ratified by a State takes precedence over national laws, the age of majority must be lowered to 18, rather than 21, the age established by the Family Code of 1980 and confirmed by the Electoral Code of 16 April 1993 (art. 2).

15. The age of emancipation, which is set at 18 years by the Family Code (art. 311), must also be revised.

16. There is no question that the legal minimum age for a child to receive legal or medical counselling without parental consent is the age of emancipation, which is set at 18 by article 311 of the Togolese Family Code of 31 January 1980. That age is obviously based on the age of majority, which must be lowered from 21 to 18, as suggested above.

17. In the future, when the age of majority is set at 18 it would be appropriate to set the age of emancipation at 16. Under the Penal Code, a child who has committed a crime, or a repeat offender, has the right to pre-trial consultation with a lawyer without parental consent.

18. The legal minimum age for the end of compulsory education is 16, since, according to article 2 of the Ordinance of 6 May 1975 on education reform, education is compulsory between the ages of 2 and 15.

19. The minimum age for employment of a child in an enterprise, even as an apprentice, is set at 14, since article 114 of the Togolese Labour Code of May 1974 prohibits the employment of a child under 14 years of age in an enterprise, even as an apprentice.

20. The legal minimum age of sexual consent for children is set at 14 under the provisions of articles 84 et seq. of the Togolese Penal Code

of 13 August 1980 concerning indecent behaviour or any physical contact with a child between 2 and 14 years of age; the same is true in the case of rape of a child under 14 years of age. The Togolese Individuals and Family Code sets the minimum age for a child's consent to marriage as the age of puberty, which is 17 for girls and 20 for boys (art. 43). Those ages are established on the basis of the age of civil majority, which is 21. In the future, it will be necessary to go back to the Mandel Decree of June 1939, which set the age of puberty as 14 for girls and 16 for boys, in view of the age of emancipation, which will be 16, and the age of majority, which will be 18.

II. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken by Togo to harmonize its law and policy with the provisions of the Convention

21. The Togolese pro-child policy was given effect by the creation in December 1993 of the National Committee for the Protection and Promotion of Children (CNE). Within the Committee, there is a legal commission responsible for dealing with the problems encountered in adapting national legislation to the provisions of the Convention on the Rights of the Child. The commission has noted that the provisions for the protection of Togolese children are distributed among several codes (the Social Security Code of 12 November 1973, the Labour Code of 8 May 1974, the Individuals and Family Code of 31 January 1980 and its annex, the Penal Code of 13 August 1980, and the Code of Criminal Procedure of 2 March 1981). The commission therefore plans to combine all these texts in a single document, which would constitute a Togolese children's code.

B. Existing or planned mechanisms for coordinating policies relating to children and for monitoring the implementation of the Convention

1. Planned mechanisms

22. There are both State and non-State mechanisms and institutions.

(a) State mechanisms

(i) Legal institutions

23. The Juvenile Division, established in 1974, is responsible for preliminary investigations and the pre-trial detention of delinquent minors on the instructions of the juvenile judge.

24. The juvenile judge and juvenile court are judicial authorities with jurisdiction in cases involving offences committed by children under 13 years of age. The distinguishing characteristic of the court is that it is a specialized legal body in which the judge combines the functions of examining magistrate ard sentencing judge. There is, thus, adequate protection of children, since, when a child commits an offence, the judge imposes a remedial, rather than a custodial, sentence. Moreover, sanctions are imposed only in exceptional cases and are always appropriate to the age and personality of the child (in the case of children over the age of 16).

25. The guardianship judge is responsible for the protection of the person and possessions of minors at the civil level. The functions of the guardianship judge are performed by the children's judge, a post which was converted to that of juvenile judge by the Code of Criminal Procedure of March 1983.

(ii) Administrative institutions

26. These include:

The Department for the Protection and Promotion of the Family and of Children, which, together with its regional offices, is responsible for implementing the policy for the protection and promotion of children. Its programmes deal with children, young people in difficulty, the disabled and the elderly;

Centres for emotionally disturbed juvenile delinquents, namely:

Cacavelli Centre for Observation and Social Rehabilitation (CORSC);

Kamina "Tomorrow" House (FAK);

The Juvenile Division;

The Division for the Protection of Mothers and Children, under the Department of National Health;

Division on the Rights of the Child, under the Department of Human Rights;

Department of Social Security.

(b) Non-State mechanisms

27. The relevant international bodies are the following: UNICEF, WHO, USAID, UNESCO, UNFPA and UNDP.

28. The following non-governmental organizations are working in this field:

Association for the Promotion of Children (APPEL), in Lomé;

Youth in Action for Development (JAD); includes both boys and girls;

St. Peter of the Poor Home, in Kara;

"OASIS" Terre des Hommes shelter for wayward children, in Lomé;

SOS-Kinderdorf International, in Lomé and Kara;

Christian Children's Fund (CCF);

Togolese League for the Rights and Well-Being of Children (LTDBE).

2. Coordination of activities to benefit Togolese Children: the CNE

29. The National Committee for the Protection and Promotion of Children (CNE) was created by Ordinance No. 16/93/MBESSN of 7 December 1993 and officially assumed its functions on 30 December 1993. It is made up of nine ministerial departments, several NGOs and private organizations working in the field, and all the country's Churches. The CNE became operational on 1 March 1994. It is currently organized into technical commissions, which are engaged in preparing a national plan of action; the national goals for 1995-1997 have been set. A national forum was held in July 1994 in order to obtain input from the population and, above all, from children themselves, in working out the plan of action. The plan of action for the protection and promotion of children is scheduled for completion by the end of July 1994.

30. The CNE has a six-member bureau:

Chairman:	A representative of the Department of Social Affairs
Vice-Chairman:	A representative of the Catholic Church
Secretary-General:	A representative of a national association (LTDBE)
Deputy-Secretary-General:	A representative of the Ministry of Planning
Treasurer:	A representative of the Ministry of Economics and Finance
Deputy Treasurer:	A representative of the Federation of NGOs of Togo (FONGTO) who also represents JAD, a local NGO.

31. Representatives of the following groups are members of the CNE:

Evangelical Church	one representative
African branch of the World Organization for Orphans and Abandoned Children (WAO)	one representative
Ministry of National Education	two representatives
Ministry of Health and Population	two representatives
Togolese League for the Rights and Well-Being of the Child	one representative
Ministry of Human Rights and Rehabilitation	one representative
Ministry of Justice	one representative

Baptist Church	one representative
Ministry of the Environment	one representative
Ministry of Communications and Culture	one representative
Muslim Union	one representative
Eglise des Assemblées de Dieu ("Assembly-of-God Church")	one representative
UNICEF	one representative, who has not yet begun to participate
Department of Social Affairs	three representatives

32. The Committee's responsibilities include informing citizens and increasing their awareness of issues related to the rights of the child, protecting the rights of children whenever necessary, developing a plan of action to benefit children, and ensuring follow-up to the recommendations of the World Summit for Children. It is organized into six technical committees:

Health and nutrition;

Education, training and entry into the workforce;

The legal commission;

Environment;

Information, consciousness-raising and surveys of the needs of children;

CNE resource mobilization.

III. GENERAL PRINCIPLES

33. The legislative measures taken in this area are embodied in the following documents:

the Constitution of the Fourth Republic of 14 October 1992;

the Togolese Individuals and Family Code of 31 January 1980;

the Ordinance of 6 May 1974 on education reform.

Non-discrimination

34. Legislative measures have been taken to eliminate or limit the effects of discrimination. For example, with regard to nationality, article 32 of the Constitution of the Fourth Republic sets forth the principle of equality by stating that any child born of a Togolese father or mother shall have Togolese nationality. Thus, in inheritance matters, where tradition plays a major

role, the law corrects the failings of customary law, for example, when the latter fails to respect the principle of equality between men and women. Nevertheless, in rural areas, the discriminatory principle remains.

35. In the field of education, the Ordinance of 6 May 1975 on education reform combats discrimination between boys and girls by providing for democratic principles and compulsory education between the ages of 2 and 15. Despite the efforts made in this area, there is a wide gap between the numbe of girls and boys enrolled in school; in the primary schools, 39.9 per cent of the pupils are girls, compared with 25.5 per cent at the secondary level, 15 per cent at the tertiary level and 10 per cent at the fourth leve

Best interests of the child

36. The following are examples of action taken in the best interests of th child:

The ratification and signature by Togo of the Convention on the Rights the Child (signed on 26 January 1990 and ratified on 1 August 1990);

The signing of the Declaration of the 1990 World Summit for Children a the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s;

The prioritization, in the near future, of two social sectors, namely health and education (a World Bank programme).

The right to life, survival and development

37. The right to life, survival and development is ensured by the Constitution and the Togolese Penal Code, which protect children from offen against their person, the Togolese Individuals and Family Code, which enshrines children's right to nutrition (arts. 110 and 111) and the Ordinan of 6 May 1975, which established a new school system whose goal is to produ developed, well-adjusted members of society.

Respect for the views of the child

38. The provisions of article 12 of the Convention may conflict with the traditional behaviour of African parents. However, under the Family Code, children over the age of 7 whose parents divorce may express their preferen with regard to custody.

IV. CIVIL RIGHTS AND FREEDOMS

39. The civil rights and freedoms granted to children are dealt within several legal texts:

The Constitution of the Fourth Republic of 14 October 1992, which gra every individual freedom of opinion, thought, religion and expression (art. 25, which corresponds to arts. 12 et seq. of the Convention on Rights of the Child);

The Togolese Nationality Code;

The Togolese Individuals and Family Code;

The annex to the Togolese Individuals and Family Code.

40. The child's right to a name is covered by the annex to the Family Code (arts. 2 et seq.), while the child's right to a nationality is governed by the Togolese Nationality Code of 16 September 1978. The provisions of this Code are discriminatory, since the transmission of nationality from parents to children is sex-based. For example, a child born of a Togolese father is Togolese, but a child born of a Togolese mother and a father who is stateless or of unknown foreign nationality is not Togolese. Equality is restored by the Constitution of the Fourth Republic, which states that "Children born of a Togolese mother or father shall have Togolese nationality" (art. 32). This conforms to article 7 of the Convention, which stipulates that a child must have a name and a nationality.

41. Preservation of the identity of the child is ensured by penal sanctions. The Togolese Penal Code stipulates a fine of 20,000 to 30,000 francs for failure to register the birth of a child within 30 days (art. 76). However, incorrect birth declarations knowingly made to a registrar are punishable by one to five years' imprisonment (art. 76). A registrar or State official who knowingly records incorrect declarations, or who deliberately alters, falsifies or destroys Civil Registry records or documents shall be liable to 5 to 10 years' imprisonment (art. 77).

42. Freedom of expression is guaranteed under the Constitution (art. 25).

43. Children's access to information is ensured by the media (radio, television), which include children's programmes in their broadcasts. It is also the media which, although inadequately at present, inform children and parents of their rights (on the occasion of lectures, debates, symposiums, etc.).

44. Freedom of thought, conscience and religion is guaranteed under the Constitution of 14 October 1992 (art. 25).

45. Freedom of association and of peaceful assembly are frequently mentioned in the French law of 1 July 1901 on freedom of association. On the basis of this law, associations have been created within education establishments. Article 10 of the Constitution of the Fourth Republic also guarantees freedom of association and peaceful assembly.

46. Article 7 of the Labour Code of 28 May 1974 stipulates that a child over 16 years of age may, with parental consent, join a trade union.

47. The protection of privacy is guaranteed by the provisions of articles 28 et seq. of the Constitution of the Fourth Republic, which guarantee the inviolability of the home and the confidentiality of correspondence, communications and telecommunications.

48. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment is guaranteed by the provisions of articles 15 et seq. of the Constitution of the Fourth Republic.

49. It is clear that the constituents of the Fourth Republic of Togo have solved the problems relating to the exercise of individual and collective freedoms and civil rights by all persons and, in particular, by children. Th National Committee for the Protection and Promotion of Togolese Children will be responsible for enforcing these civil rights and freedoms.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

50. Parental authority is exercised both by the father, as head of the household, and by the mother, who cooperates with the father in the material and moral supervision of the family (arts. 101 and 110 of the Family Code). In fact, in most cases, the mother alone is responsible for the material and moral well-being of children; about a fourth of the Togolese population live in households whose only head is a woman. In cases of failure in parental responsibility, the social services work with parents to help them raise and educate their children.

51. The joint exercise of parental authority means that both parents are jointly responsible for their children's upbringing (art. 233 of the Togolese Family Code). When parents do not fulfil that role, they are relieved of parental authority. Children at moral risk are placed in an institution or a foster family until action can be taken with regard to the parents.

52. The problem of children's separation from their parents occurs in cases of divorce or physical separation of the parents. In either case, children under 7 years of age are placed in the custody of their mothers. Children over 7 years age of age may be placed in the custody of either parent (art. 142 of the Family Code). A parent who has lost custody of his or her child retains the right to visit, and be visited by, the child.

53. When, investigation by the social services shows that neither parent ca provide for a child's upbringing, the child is placed in the care of another family member. In such cases, the child's wishes are taken into account.

54. Children deprived of their only parent (for example, if the mother has been imprisoned) are placed in an institution until their mother's release. However, contact between mother and child is maintained during that time, particularly in the case of a very young child. The same procedure is followed when a mother is hospitalized for medical treatment. Such situatio can lead the children involved into delinquency.

55. When a child is to be reunited with parents living abroad, the social services make the necessary arrangements with the consulates involved. There are, of course, difficult situations in which children cannot be reunited wi their fathers; in such cases, a correspondence is established between them v the consulate.

56. The recovery of maintenance for the child does not raise any problem wh the parent owing the maintenance is a salaried worker or a civil servant; in

that case, an amount is withheld at source which must not exceed one third of the salary. By contrast, when the parent does not have an occupation and a regular salary or works in the informal sector, maintenance of the child is in jeopardy. The social welfare service is expected to assist the child in such cases, but has very limited resources, especially in the present socio-economic context.

57. Like the Convention, the Togolese Family Code embodies the child's right to a family in its provisions relating to parental authority (arts. 232 et seq.). In principle, the legal means of protection offered to the child deprived of his family environment is full adoption.

58. With this institution, the child loses his family origins to become the legitimate child of the adoptive family, and his legal status becomes the same as that of a child born in wedlock (art. 230 of the Family Code). Adoption is approved only if it is in the best interests of the child.

59. Priority is given to national adoption, but inter-country adoption is practised if that solution is not available to the child for any particular reason. With inter-country adoption, the adoptive parents are subject to the law in force in their country and in Togo; arrangements are made by all local and international authorities for surveillance and follow-up after adoption to prevent child trafficking. A chain of solidarity has been set up by the various adoptive families abroad. Inquiries are made concerning adaptation and photographs of the child are sent regularly. Correspondence is established in the case of national adoption and the social services are entrusted with the follow-up.

60. An alternative to protection by adoption is placement of the child deprived of a family environment in private or public institutional care.

61. Bilateral agreements have been signed between Togo and other States to control illicit transfers of children abroad. With regard to national problems, the courts, together with the police and the social services, are combating the illicit transfer of children or kidnapping; especially in the case of divorce or separation or of family disputes. Action is taken to return the child to the party who has custody or legal responsibility, and the child and the parent are subject to follow-up, even abroad, through the international social service or any other competent service.

62. Children are protected against abuse and violence in Togolese penal and civil law. Under penal law, parents who subject a child to violence (beatings and deliberate injury, indecent assault with or without violence, neglect of or failure to maintain the home, failure to provide maintenance for the child, non-declaration or false declaration of birth) are punishable by imprisonment or a fine. This kind of punishment is ineffective and incompatible with the provisions of the Convention, as imprisonment or a fine will have the effect of depriving the child of his right to maintenance, i.e. to survival.

63. Civil law considers that neglect or abuse of the child may jeopardize his health, safety, morals and education. The law distinguishes between two categories of sanction: partial or complete loss of parental authority, and educational assistance to the parents.

64. A child in such a situation is placed, after a brief stay in institutional care, with a foster family or a guardian and is monitored. These measures are taken for the child's protection and education. The child is also monitored at school and in regard to his health to avert the effects of the ill-treatment suffered.

65. The child in institutional care is monitored and his placement reviewed with the aim of avoiding institutionalization, which might cause him psychological or moral harm.

66. Minors aged 12 years or over who are placed in institutional care by order of the juvenile judge do not remain in such care for more than three years unless the training which they are receiving has not been completed. The social services of the institutions providing care are responsible for relations with the parents, who are expected to visit their child. Specialized educators keep records of the progress of each child and submit a summary report every three months to the authorities monitoring the placement, enabling them to decide whether it should be shortened or extended.

VI. BASIC HEALTH AND WELFARE

67. The administrative measures taken are as follows:

The Expanded Programme on Immunization (EPI), which began in 1980, has achieved a maximum coverage of 64 per cent for children completely immunized and a minimum of 73 per cent per antigen (data from the 1990 national EPI survey);

The programme to control diarrhoeal diseases instituted in 1982 emphasizes the use of oral rehydration therapy;

The safe motherhood programme has enabled 54 per cent of pregnant women to be attended during child birth;

The family planning programme is implemented jointly by the Togolese Family Welfare Association (ATBEF) and the service attached to the Family Health Division; 48 per cent of women know about modern contraceptive methods (see the report dated March 1991);

The growth monitoring and promotion (CPC) programme combines regular weighing of children from 0 to 5 years with health and nutrition education for mothers;

The Bamako Initiative aimed at delivering health-care services to the public at low cost is operational in health centres in both urban and rural areas;

The programme to combat AIDS;

The programme to combat malaria.

Infrastructure

68. In respect of health facilities, the State has 2 teaching hospitals and 32 other hospitals, 472 public health clinics, 43 maternal and child welfare centres, 33 medico-social centres, 8 public pharmacies, 48 private pharmacies and 90 Togopharma stores.

69. As regards specialist personnel, there are 319 physicians of all specialities, 1,187 nurses/State nurses, 135 medical assistants, 252 State laboratory workers, 61 senior laboratory technicians and 43 senior public health engineering technicians.

70. The statistics show that only 35 per cent of children under 5 years of age have access to health-care services; 46 per cent of deliveries take place in hygienically unsafe conditions at home because of the poor distribution and shortage of supervisory personnel.

71. The theoretical coverage of health personnel is as follows: 1 physician for 11,270 inhabitants, 1 State nurse or medical assistant for 3,029 inhabitants, 1 midwife for 9,977 inhabitants and 1 public health engineer for 83,605 inhabitants. These figures change as one moves towards outlying areas. There may, for example, be 1 physician for 3,750 inhabitants in the city, but 1 physician for 20,000 inhabitants in outlying regions. There is a shortage and poor distribution of health personnel.

72. Medical staff receive seven years of training on average, while training for paramedical personnel lasts three years.

73. The school medical officer exists only at the central level. His activities are very limited because of the lack of resources.

74. The difficulties or, to be more exact, the obstacles encountered in the implementation of health policy include:

The shortage of infrastructure for the care of sick children;

The shortage of qualified medical and paramedical staff;

The low purchasing power of families, which makes it impossible for them to pay for health-care services.

VII. PROGRESS ACHIEVED

75. Progress achieved with regard to child survival and development includes the creation of the Department for the Protection and Promotion of the Family, which manages several programmes concerned with child survival and development (applied nutrition programme for children aged 0 to 5 years; welfare programme for all vulnerable segments of society, including children, pregnant women and destitute mothers; EPI awareness-raising programme; programme of income-generating activities to enhance the purchasing power of households and enable them to provide for family members' needs). The State services, non-governmental organizations (Terre des Hommes Foundation, which deals with neglected children, SOS-Kinderdorf International, Youth in Action for

Development, Conseil Gestion Afrique Togo, la Pouponnière) and international organizations (UNICEF, WHO, etc.) are collaborating at the national level.

76. The results obtained are as follows:

The under-five mortality rate is 80 per 1,000;

64 per cent of children are completely immunized; 45.2 per cent of mothers know the health drink for diarrhoea and 33 per cent use it;

280,000 children are covered by the growth monitoring and promotion programme;

The national coverage of village pharmacies is 52 per cent;

816 school pharmacies are located in provincial schools;

The utilization rate of family planning services is 10 per cent for clinical methods and 30 per cent for non-clinical methods.

77. Measures taken on behalf of disabled children are set out in the development plans designed to benefit all children. These include immunization programmes, some of the provisions contained in the Family Code, educational reforms, etc.

78. Also to be noted are the initiatives of private organizations to assist certain categories of disabled children:

The Togoville, Kpalimé, Bassar and Kara schools for the blind provide courses in Braille based on the general curriculum;

The school for the deaf and dumb at Lomé caters for about 60 children;

The psycho-medical education centres for mentally retarded children.

79. The Togolese social security system (Ordinance No. 39/73 of 12 November 1973) is very selective, i.e. it applies only to the children of salaried workers and officials not members of the civil service.

80. The family benefits which the system provides are prenatal and post-natal benefits, i.e. maternity leave and family allowances and home leave. All these benefits are very small.

81. Day-care facilities are made available by Terre des Hommes, SOS-Kinderdorf International at Lomé and Kara, la Pouponnière and the early childhood centres set up throughout the country. The innovation in this area is that children are now beginning to be placed in safe locations (CPPE) with appropriate staffing to provide care and education in proper conditions.

82. In a family that is united (by marriage), the obligation of maintenance lies with the father and the mother, who exercise parental authority jointly (arts. 110 and 233).

83. If the parents are divorced or physically separated, the obligation of maintenance lies with the parent who has custody of the child. In the event of disagreement between the spouses, the level of support is set by the judge, who must take into consideration the resources of the provider and the needs of the beneficiary.

84. In so far as the natural family is concerned, the obligation of maintenance lies with the parent who has voluntarily recognized the child. If both parents recognize the child at the same time, priority must be given to the father, who will then take on the obligation of maintenance.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

85. A distinction has to be made between family education and school education in Togo.

86. Family education is recognized by articles 110 and 233 of the Togolese Individuals and Family Code; article 110 states clearly that through marriage the parents contract to bring up and instruct their children. Article 233 specifies that the parents' obligation to educate their children is an attribute of parental authority.

87. School education is regulated by the ordinance of 6 May 1975 reforming the education system and setting the goals of the new school system. To this should be added the decision of 26 December 1975 establishing a parents' association for each school at the first three levels. The administrative measures taken to promote implementation of the reform of 6 May 1975 include the creation of school at the first three levels.

88. According to the UNICEF report for 1993, 85 per cent of boys, as against only 58 per cent of girls, enter the first level. Of the total number of entrants, 46 per cent leave at the end of the primary cycle. By the end of the secondary cycle 33 per cent of boys and 10 per cent of girls remain. However, there are a number of obstacles which should be noted, including:

- The shortage and under-qualification of teaching staff;
- The shortage of school facilities, which has led to overcrowded classrooms and a resulting increase in the proportion of pupils repeating a year (the national rate is 1 pupil in 2);
- The shortage of teaching materials;
- The lack of facilities for games in kindergartens.

Education, including vocational training and guidance

89. Since the reform of May 1975, there have been a number of innovations, as follows:

- The creation of four levels of instruction, which represents an improvement on the previous education system, where there were only two levels (primary and secondary schools);

The creation of schools of agriculture to provide training for young people not attending or having left school;

The creation in 1985 of a Ministry of Technical Education and Vocational Training, which has helped to resolve the employment-training equation;

The affirmation of the principle of compulsory and free education by article 2 of the ordinance of 6 May 1975 (education is compulsory from ages 2 to 15).

Aims of education

90. The aims of education are specified in the objectives of the new school system instituted by the reform of 6 May 1975, namely:

To democratize education, i.e. make it compulsory, free and equal for girls and boys;

To make education efficient, i.e. avoid repeating by ensuring that classes are of a reasonable size (art. 15);

To adapt education to the developing environment (institution of two national languages, Kabyè and Ewé; reinstatement of subjects such as music, physical and sports education, drawing, cultural and artistic activities, sex education and initiation into family life and practical life, and civics). Clearly, with the appearance of concepts such as human rights, the rights of the child, private initiative, the environment and nutrition, the school curricula need to be reviewed.

Leisure, recreation and cultural activities

91. Leisure, recreation and cultural activities have already been considered in (b) above.

92. Along with the State schools, there are private schools, both secular and religious. The religious schools receive subsidies from the State, but that is not the case for the secular schools. We should point out that, for children not attending or having left school, the Social Service provides functional literacy courses. There are no statistics available for children in that connection.

IX. SPECIAL PROTECTION MEASURES

93. Refugee children and children in armed conflicts enjoy no legal protection. For Togo, this is a completely new phenomenon. However, the social services provide some administrative protection for these two social categories by supplying them with emergency material assistance.

Protection under penal law

94. Protection under penal law of a child who commits or is the victim of an offence is governed by three sets of instruments:

(i) The ordinance of 13 February 1969 instituting the office of juvenile judge;

Ordinance No. 78/35 of 7 September 1978 on the organization of the judicature, which includes juvenile courts among the specialized ordinary courts (art. 1);

(ii) The Penal Code of 13 August 1980, protecting child victims of offences;

The Code of Criminal Procedure of 2 March 1983, protecting child offenders;

(iii) The Labour Code of 8 May 1974, governing child labour, together with the decisions enabling implementation of the Code;

The ordinance of 16 November 1988 governing apprenticeship in Togo.

95. Obstacles to the implementation of protection under penal law for the child who commits or is the victim of an offence include:

The non-specialization of the juvenile judge;

The shortage of preventive detention centres designed for child offenders (there is only one centre in the capital, called the Brigade pour mineurs);

Shortage of juvenile courts (there is only one court for children in the capital);

Shortage of rehabilitation and social reintegration centres (two public care centres, namely Cacavelli and Kamina, which are both in need of renovation).

Administration of juvenile justice

96. A child responsible for a criminal offence receives special treatment, i.e. he comes under the specialized jurisdiction of the juvenile judge or juvenile court. These two authorities conduct both the trial and the pre-trial proceedings.

97. The juvenile judge is empowered to deal with minor offences (contraventions and some misdemeanours), while the juvenile court not only serves as an assize court (children aged 16 years or over) but can also deal with cases of recidivism.

98. How is the child defended before the juvenile judge or the juvenile court? The defence is conducted by a lawyer appointed by the court or chosen by the parents, especially in cases involving a crime; but we may note that the Constitution of 14 October 1992 provides for legal counsel from the start of the preliminary investigation (art. 16). The child is also helped by social workers, especially the social worker assigned to the juvenile judge or court.

99. Some legal and administrative measures have been taken in Togo to avoid judicial proceedings or institutionalization in the case of children. Under the Family Code for example, a child abused or neglected by his parents may receive educational assistance, which is both a protection for the child and a form of help to the defaulting family. In addition, the child may be placed with a third party rather than in institutional care.

Treatment of children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings

100. The child in principle receives special treatment which is involving remedial rather than custodial measures (return of the minor to his parents or to a trustworthy person). In the case of placement in institutional care, the institution concerned provides for the child's schooling and vocational training. In general, the institution prepares for the child's return to his family through the social services. The same treatment applies at the Brigade pour mineurs, i.e. the remand home for juveniles, which has its own social service.

Sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment

101. Article 475 of the Togolese Code of Criminal Procedure of 2 March 1983 provides that if a juvenile convicted of a criminal offence is over 16 years of age at the time of sentencing, the penalty must be aligned with that for an adult offender, subject to the following conditions: first, the penalty incurred by the juvenile offender cannot be more than half that applicable to adult offenders; and, secondly, it may not exceed a total of 10 years. In any event, this relates to sentencing in cases involving a crime or recidivism.

Physical and psychological recovery and social reintegration

102. The institutions responsible for physical and psychological recovery and social reintegration (CORSC and FAK) have not been able to meet their objectives satisfactorily. Consideration has therefore been given since August 1993 to reorganizing these institutions with a view to promoting educational assistance in an open setting, thereby making use of the child's social environment.

Economic exploitation, including child labour

103. Child labour is regulated, as we have already indicated, by the provisions of the Labour Code (art. 114), as well as by decision No. 884-55/LTIS of 28 October 1955 relating to female and child labour, and by decision No. 15/MTAS-FP of 6 December 1958 relating to child labour. These instruments prohibit the employment of a child aged less than 14 years in an enterprise, even as an apprentice. Furthermore, work performed by a child must not exceed his physical capacity or endanger his health, education or morals.

Drug abuse

104. The Togolese legislature has signed most of the international instruments prohibiting the illicit traffic in or illicit consumption of toxic and psychotropic substances (the Single Convention on Narcotic Drugs of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988). At the domestic level, there are the following instruments:

The decree of 4 May 1928 regulating toxic substances;

Decree No. 62-100 of 20 July 1962 establishing a service for the suppression of illicit traffic in narcotic drugs;

Decree No. 74-110 of 25 July 1974 establishing a national commission on narcotic drugs and psychotropic substances;

Act No. 84-15 of 16 May 1984 prohibiting the use and production of or traffic in toxic and psychotropic substances;

Order No. 77-8 of 20 March 1977 granting the monopoly of imports of medicaments to Togopharma;

Inter-ministerial decision No. 14-89 of 31 May 1989 establishing new provisions relating to the transit of pharmaceutical products in Togo.

105. These instruments all have two aims, namely punishment and prevention. As regards the first aim (Act of 16 May 1984), the penalty is in principle imprisonment for 5 to 10 years and a fine of between 1 million and 5 million francs.

106. If a child under 18 years of age is involved in drug trafficking, the maximum penalty increases from 10 to 20 years of imprisonment, with a fine of 2 million to 10 million francs. Regarding the second aim, Togopharma is responsible for controlling imported pharmaceuticals containing toxic and psychotropic substances. The intention is also to stop these products from entering Togo.

Sexual exploitation and sexual abuse

107. The child victim of sexual exploitation or sexual abuse is protected by the provisions of articles 84 et seq. of the Togolese Penal Code of 13 August 1980, which set a penalty of 1 to 5 years of imprisonment for indecent assault without violence on a child aged under 14 years. In the event of the use of violence or threats, the maximum penalty is increased from 5 to 10 years of imprisonment (art. 85). As regards rape, the perpetrator or accomplice may be sentenced to 20 years of imprisonment if the victim is a child under 14 years of age (art. 87).

Sale, trafficking and abduction

108. Child abduction is punishable under the provisions of articles 78 et seq. of the Togolese Penal Code of 13 August 1980, which provides for sentences of

imprisonment ranging from 1 to 10 years. With regard to the sale of or traffic in children, there is regrettably a lack of regulation, but in the future the question will very certainly be taken up in connection with adoption, where the legislature will be able to regulate this matter effectively.

CONCLUSION

109. This initial report on the extent of the implementation of the Conven on the Rights of the Child and the progress achieved in that regard in Togo has provided an excellent opportunity to define the main problems that the country must tackle in order to continue to make progress towards the realization of the rights of the child.

110. In recent years, the situation of children has improved considerably thanks to the development of coherent health, nutrition and education programmes.

111. On taking office, the present Government committed itself to pursuing vigorous social policy based on participation and focusing on effectiveness Its efforts have made it possible to restore social spending, particularly the fields of health, education and social welfare.

112. At the same time, to give full effect to the Convention, the contradictions and shortcomings in current legislation and judicial practic need to be remedied so that children can fully enjoy their rights, both fro the standpoint of legislation and in everyday life. This harmonization of legislation is a prerequisite for the implementation of an appropriate soci policy geared to childhood and young people.

113. Thus, in conclusion, the situation concerning the rights of the child Togo has undergone some notable changes in recent years, particularly in so far as legislative instruments are concerned. Manifest efforts are being m to put those instruments into effect, efforts which deserve to be pursued a encouraged at all levels of Togolese society. The creation of the National Committee for the Protection and Promotion of Children is undoubtedly a positive element and a stimulus for the promotion of the rights of the chil in Togo. The Committee must therefore be supported in financial and materi terms to make it really operational and effective.